

1 STEPHEN A. SOMMERS, SBN 225742
 2 JACOB SIDER, SBN 236084
 Sommers Law Group
 3 870 Market Street, Ste. 1142
 San Francisco, CA 94102
 (415) 839-8569 (Telephone)
 (415) 956-0878 (Fax)
 4 ssommers@sommerslaw.com

5 Attorneys for Plaintiff
 6 Paul Montwillo

7
 8 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 9

10 PAUL MONTWILLO,

11 Plaintiff,

12 vs.

13 WILLIAM TULL; DANIEL GIBBY; GIBBY
 NOVELTIES, LLC dba ARSENIC & APPLE
 14 PIE; DOES 1-100, inclusive,

15 Defendants.

16 } Case No.: C 07 3947 SI

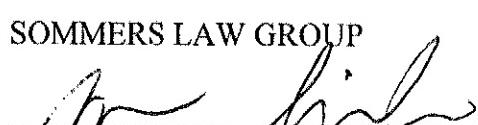
} PLAINTIFF'S OPPOSITION TO
 MOTION FOR A STAY OF
 PROCEEDINGS

17 } Courtroom: 10
 18 } Judge: Hon. Susan Illston
 19 } Date: November 16, 2007
 20 } Time: 9:00 a.m.
 21 }

22
 23 Defendants have moved to stay proceedings in this matter to coordinate with a matter
 which they claim is related; San Francisco Superior Court Case No. CGC-05-442352. Without
 conceding that it is related to the instant case, Plaintiff has dismissed the Superior Court case,
 rendering moot Defendants' motion for stay of proceedings. (See Exhibit A, endorsed Request
 for Dismissal of San Francisco Superior Court Case No. CGC-05-442352.)

24 SOMMERS LAW GROUP

25 October 24, 2007

26

 27 Steven Sommers
 28 Jacob Sider
 Attorneys for Plaintiff
 Paul Montwillo

PROOF OF SERVICE

Paul Montwillo v. William Tull, et al
USDC Northern District of CA, Case No. C 07 3947 SI

I am over the age of eighteen and not a party to the above-titled action. On October 24, 2007, I served true copies of the following document:

PLAINTIFF'S OPPOSITION TO MOTION FOR A STAY OF PROCEEDINGS

On attorneys for Defendants.

BY U.S. MAIL. I placed the document in an envelope with appropriate postage and then placed the envelope in a U.S. Mail box.

At the following addresses:

David Wong
100 Shoreline Highway, Suite 100 B
Mill Valley, CA 94941

Law Offices of Marc Greenburg
536 Mission Street, Suite 2323
San Francisco, CA 94105

I declare the above to be true under penalty of perjury under the laws of the State of California.
Executed on this 24th day of October, 2007, in San Francisco, California.

Jacob Sider

EXHIBIT A

CIV-110

| | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Stephen Sommers (SBN 225742) Sommers Law Group 870 Market Street, Suite 1142, San Francisco, CA 94102 | | TELEPHONE NO.: 415-839-8569 | FOR COURT USE ONLY |
| ATTORNEY FOR (Name): Paul Montwillo | | ENDORSED FILED San Francisco County Superior Court | |
| Insert name of court and name of judicial district and branch court, if any: San Francisco Superior Court, Civic Center Branch | | OCT 12 2007 | |
| PLAINTIFF/PETITIONER: Paul Montwillo | | GORDON PARK-LI, Clerk BY Deputy Clerk | |
| DEFENDANT/ RESPONDENT: William Tull, et al. | | | |
| REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): Contract Claim | | CASE NUMBER: CGC-05-442352 | |
| - A conformed copy will not be returned by the clerk unless a method of return is provided with the document. - | | | |

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) With prejudice (2) Without prejudice
- b. (1) Complaint (2) Petition
(3) Cross-complaint filed by (name): _____
(4) Cross-complaint filed by (name): _____
(5) Entire action of all parties and all causes of action
(6) Other (specify):*

on (date): _____

on (date): _____

Date: October 12, 2007

Stephen Sommers

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only or specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

(SIGNATURE)

Attorney or party without attorney for:

- Plaintiff/Petitioner Defendant/Respondent
 Cross - complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date: October 12, 2007

Stephen Sommers

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

(SIGNATURE)

Attorney or party without attorney for:

- Plaintiff/Petitioner Defendant/Respondent
 Cross - complainant

(To be completed by clerk)

3. Dismissal entered as requested on (date): _____
4. Dismissal entered on (date): _____ as to only (name): _____
5. Dismissal not entered as requested for the following reasons (specify): _____
6.
 - a. Attorney or party without attorney notified on (date): _____
 - b. Attorney or party without attorney not notified. Filing party failed to provide a copy to conformed means to return conformed copy

Date:

Clerk, by _____, Deputy _____

Page 1 of 1

POS-030

| | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Stephen Sommers (SBN 225742) Sommers Law Group 870 Market Street, Suite 1142, San Francisco, CA 94102 | | FOR COURT USE ONLY |
| TELEPHONE NO.: 415-839-8569 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Paul Montwillo | | ENDORSED FILED San Francisco County Superior Court OCT 12 2007 GORDON PARK-LI, Clerk BY _____ Deputy Clerk |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center | | |
| PETITIONER/PLAINTIFF: Paul Montwillo | | CASE NUMBER: CGC-05-442352 |
| RESPONDENT/DEFENDANT: William Tull | | |
| PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL | | |

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
870 Market Street, Suite 1142, San Francisco, CA 94102
3. On (date): 10/12/2007 I mailed from (city and state): San Francisco
the following documents (specify):
Request for Dismissal

- The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).
4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 5. The envelope was addressed and mailed as follows:
 - a. Name of person served: David Wong
 - b. Address of person served:
100 Shoreline Highway, Suite 100B, Mill Valley, CA 94941

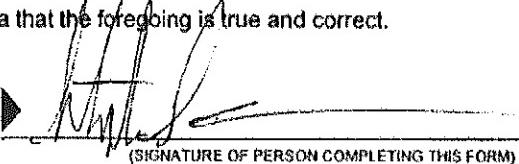
The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/12/2007

Stephen Sommers

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)



(SIGNATURE OF PERSON COMPLETING THIS FORM)